

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

THEODORE ROGERS, JR.,)
vs.)
Petitioner,)
vs.) **CIVIL NO. 09-cv-785-MJR**
NEDRA CHANDLER,)
Respondent.)

MEMORANDUM AND ORDER

REAGAN, District Judge:

Petitioner Theodore Rogers, Jr., filed this action pursuant to 28 U.S.C. § 2254 to challenge his conviction on two counts of armed robbery in St. Clair County, Illinois. Shortly thereafter, Rogers filed a motion to stay (Doc. 5). In this motion, he acknowledges that he has not yet sought nor received leave from the Seventh Circuit Court of Appeals to file a second or successive habeas corpus petition. Thus, Rogers asks the Court to stay these proceedings until such permission is granted.

The statute provides that “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A) (emphasis added). Because Rogers did not obtain permission from the Seventh Circuit Court of Appeals before he filed the instant § 2254 application in this Court, the Court lacks authority to grant Rogers the relief he seeks.

Thus, the motion to stay is **DENIED**, and this action is **DISMISSED**. Dismissal is without prejudice to Rogers filing a new § 2254 petition, but only after he has obtained proper authorization to do so from the Seventh Circuit Court of Appeals. All other pending motions are now **MOOT**.

IT IS SO ORDERED.

DATED this 22nd day of April, 2010.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge